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10/509,337	10/08/2004	Hideto Aikawa	259911US2PCT	2022
22850	7590	07/08/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			CHAN, RICHARD	
ART UNIT	PAPER NUMBER			
			2618	
NOTIFICATION DATE	DELIVERY MODE			
07/08/2008	ELECTRONIC			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/509,337	<b>Applicant(s)</b> AIKAWA ET AL.
	<b>Examiner</b> RICHARD CHAN	<b>Art Unit</b> 2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2007.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1448)<br>Paper No(s)/Mail Date <u>9/25/07</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

\(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Wu et al. (US 6,680,925).

With respect to claim 1, Wu discloses the mobile station 114 that receives data from a plurality of sectors and selects sectors as candidates for site selection diversity transmit power control from said plurality of sectors, characterized in that said mobile station selects two or more sectors from sectors listed in a sector selection candidate table through the FCS scheme, which is received, from a radio network control station.

(Col.2 line 50-63)

With respect to claim 2, Wu discloses the mobile station according to Claim 1, characterized in that when said mobile station 114 does not receive any data via dedicated physical data channels from selected sectors, said mobile station selects two or more sectors (Col.4 line 7-11)

With respect to claim 3, Wu discloses the mobile station according to claim 1, characterized in that when said mobile station has not received any data via dedicated physical data channels from selected sectors a predetermined number or more of times, said mobile station selects two or more sectors (Col.4 line 7-11)

With respect to claim 4, Wu discloses the mobile station UE according to claim 1, characterized in that said mobile station 114 determines whether or not said mobile station is receiving data via a common pilot channel from each of said plurality of sectors, and, when said mobile station has not received any data via common pilot channels from each of said plurality of sectors a predetermined number or more of times, said mobile station selects two or more sectors (Col.4 line 7-11)

With respect to claim 5, Wu discloses the mobile station UE according to claim 4, characterized in that said mobile station UE excludes sectors from which said mobile station does not receive any data via common pilot channels from candidates for site selection diversity transmit power control. (Col.4 line 7-11)

With respect to claim 6, Wu discloses the mobile station UE according to Claim 4, characterized in that said mobile station excludes sectors from which said mobile station has not received any data via common pilot channels the predetermined number or more of times from candidates for site selection diversity transmit power control (Col.4 line 7-11)

Wu discloses wherein a pilot but information is required in received the dedicated data to the UE, therefore if there is no ability to connect to dedicated data for the UE to a particular cell, the UE will not be selecting the particular cell.

With respect to claim 7, Wu discloses the mobile station UE that receives data from a plurality of sectors and selects sectors as candidates for site selection diversity transmit power control , characterized in that said mobile station determines whether or not said mobile station is receiving data from each of said plurality of sectors, and excludes sectors from which said mobile station UE has not received any data via common pilot channels a predetermined number or more of times from candidates for site selection diversity transmit power control. (Col.2 line 50-63) (Col.4 line 7-11) and (Col.4 line 43-47)

With respect to claim 8, Wu discloses the mobile station UE according to Claim 7, characterized in that said mobile station determines whether or not said mobile station is receiving data via a common pilot channel from each of said plurality of sectors. (Col.4 line 7-11)

With respect to claim 9, Wu discloses the mobile station according to Claim 7, characterized in that said mobile station UE determines whether or not said mobile station is receiving data via a dedicated physical data channel from each of selected sectors, and excludes sectors from which said mobile station has not received any data

via dedicated physical data channels a predetermined number or more of times from candidates for site selection diversity transmit power control. Col.4 line 48-59

With respect to claim 10, Wu discloses the mobile station UE that receives data from a plurality of sectors (cells) and selects sectors as candidates for site selection diversity transmit power control characterized in that said mobile station UE selects sectors based on site selection diversity transmission power control on/off information received via said plurality of sectors from a radio network control station, information (pilot signal) indicating whether or not said mobile station is receiving data via a dedicated physical data channel from each of said plurality of sectors, and DTX (Discontinuous transmission) on/off information of a TFCI (Transport Format Combination Indicator) field indicating a structure of a transport channel in the dedicated physical control channel. (Col.2 line 50-63) (Col.4 line 7-11) and (Col.4 line 43-47)

With respect to claim 11, Wu discloses the mobile station UE according to Claim 10, characterized in that said mobile station UE measures received power of the dedicated physical data channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.9 line 11-16)

With respect to claim 12, Wu discloses the mobile station according to Claim 10, characterized in that said mobile station UE measures received power of the dedicated

physical control channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.9 line 11-16)

With respect to claim 13, Wu discloses the mobile station UE according to Claim 10, characterized in that said mobile station UE measures received power of a pilot field of the dedicated physical data-control channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.4 line 7-11) and (Col.9 line 11-16)

With respect to claim 14, Wu discloses the mobile station UE according to Claim 10, characterized in that said mobile station UE measures both received power of the TFCI field of the dedicated physical control channel and received power of a pilot field of the dedicated physical data channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.2 line 50-63) (Col.4 line 7-11) and (Col.4 line 43-47)

With respect to claim 15, Wu discloses the mobile station UE according to claim 1, wherein: the sector selection candidate table is received via said plurality of sectors. (Col.2 line 50-63)

With respect to claim 16, Wu discloses the mobile station, comprising: means for receiving, data from a plurality of sectors (cells); and means for selecting two or more sectors as candidates for site selection diversity transmit power control, said two or more sectors selected from sectors of a sector selection candidate table. (Col.4 line 7-11) and (Col.9 line 11-16)

With respect to claim 17, Wu discloses the mobile station UE according to claim 16, wherein said means for selecting comprises: means for selecting two or more sectors when said mobile station does not receive any data via dedicated physical data channels from selected sectors. (Col.4 line 7-11)

With respect to claim 18, Wu discloses the mobile station UE according to claim 16, wherein said means for selecting comprises: means for selecting two or more sectors (cells) when said mobile station UE has not received any data via dedicated physical data channels from selected sectors a predetermined number or more of times. (Col.4 line 7-11)

With respect to claim 19, Wu discloses the mobile station UE according to claim 16, wherein said means for selecting comprises: means for selecting two or more sectors (cells) when said mobile station UE determines that said mobile station has not received any data via common pilot channels from each of said plurality of sectors a predetermined number or more of times. (Col.4 line 7-11)

Wu discloses wherein a pilot but information is required in received the dedicated data to the UE, therefore if there is no ability to connect to dedicated data for the UE to a particular cell, the UE will not be selecting the particular cell.

With respect to claim 20, Wu discloses the mobile station UE according to claim 19, wherein said means for selecting excludes sectors from which said mobile station does not receive any data via common pilot channels from candidates for site selection diversity transmit power control. (Col.4 line 7-11)

With respect to claim 21, Wu discloses the mobile station UE according to claim 19, wherein said means for selecting excludes sectors (cells) from which said mobile station has not received any data via common pilot channels the predetermined number or more of times from candidates for site selection diversity transmit power control. (Col.4 line 7-11)

With respect to claim 22, Wu discloses the mobile station UE, comprising: means for receiving data via pilot channels 216 used by a plurality of sectors (cells); (Col.4 line 7-11)means for determining whether sectors of said plurality of sectors have not received data via common pilot channels at least a predetermined number of time; and means for selecting candidate sectors by excluding from said plurality of sectors from which said mobile station has not received data via common pilot channels at least a

predetermined number of times. (Col.4 line 48-59)

With respect to claim 23, Wu discloses the mobile station UE according claim 22, wherein: said means for determining comprises means for determining whether said mobile station UE is receiving data via a common pilot channel 216 from each of said plurality of sectors (Cells). (Col.4 line 7-11)

With respect to claim 24, Wu discloses mobile station UE according to claim 22, further comprising: means for determining whether said mobile station UE is receiving data via a dedicated physical data channel from each of the candidate sectors (cells) which have been selected, and excluding sectors from which said mobile station UE has not received any data via dedicated physical data channels a predetermined number or more of times from candidates for site selection diversity transmit power control. (Col.4 line 7-11) (Col.9 line 11-16)

With respect to claim 25, Wu discloses the mobile station UE according to claim 22, further comprising: means for selecting a sector whose common pilot channel has a strongest power from the candidate sectors which have been selected. (Col.4 line 48-59)

With respect to claim 26, Wu discloses the mobile station UE, comprising: means for receiving data from a plurality of sectors (cells); and means for selecting sectors as

candidates for site selection diversity transmit power control using: site selection diversity transmission power control on/off information received via said plurality of sectors from a radio network control station, information indicating whether said mobile station is receiving data via a dedicated physical data channel from said plurality of sectors, and DTX (Discontinuous transmission) on/off information of a TFCI (Transport Format Combination Indicator) field indicating a structure of a transport channel in the dedicated physical control channel. (Col.2 line 50-63) (Col.4 line 7-11) and (Col.4 line 43-47)

With respect to claim 27, Wu discloses the mobile station UE according to claim 26, further comprising: means for measuring received power of the dedicated physical data channels of said plurality of sectors to determine whether said mobile station is receiving data via the dedicated physical channels. (Col.9 line 11-16)

With respect to claim 28, Wu discloses the mobile station UE according to claim 26, further comprising: means for measuring received power of the TFCI field of the dedicated physical data channel so as to determine whether said mobile station UE is receiving data via the dedicated physical data channel from said plurality of sectors. (Col.4 line 7-11)

With respect to claim 29, Wu discloses the mobile station UE according to claim 26, further comprising: means for measuring received power of a pilot field of the

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dedicated physical data channel so as to determine whether said mobile station UE is receiving data via the dedicated physical data channel from said plurality of sectors.

(Col.9 line 11-16)

With respect to claim 30, Wu discloses the mobile station according to claim 26, further comprising: means for measuring received power of both the TFCI field of the dedicated physical data channel and a pilot field of the dedicated physical data channel so as to determine whether said mobile station is receiving data via the dedicated physical data channel from said plurality of sectors (Col.9 line 11-16)

With respect to claim 31, Wu discloses the method of operating a mobile station, comprising: receiving, by the mobile station UE, data from a plurality of sectors (cells); and selecting, by the mobile station UE, two or more sectors as candidates for site selection diversity transmit power control, said two or more sectors selected from sectors of a sector selection candidate table. (Col.4 line 7-11)

With respect to claim 32, Wu discloses the method according to claim 31, wherein: said mobile station selects two or more sectors when said mobile station does not receive any data via dedicated physical data channels from selected sectors (Col.9 line 11-16)

With respect to claim 33, Wu discloses the method according to claim 31, wherein: said mobile station UE selects two or more sectors when said mobile station has not received any data via dedicated physical data channels from selected sectors a predetermined number or more of times. (Col.4 line 7-11)

With respect to claim 34, Wu discloses the method according to claim 31, wherein: said mobile station UE selects two or more sectors when said mobile station UE determines that said mobile station has not received any data via common pilot channels from each of said plurality of sectors a predetermined number or more of times. (Col.9 line 11-16)

With respect to claim 35, Wu discloses the method according to claim 34, wherein: said mobile station UE excludes sectors from which said mobile station does not receive any data via common pilot channels from candidates for site selection diversity transmit power control. (Col.4 line 48-59)

With respect to claim 36, Wu discloses the method according to claim 34, wherein: said mobile station UE excludes sectors from which said mobile station has not received any data via common pilot channels the predetermined number or more of times from candidates for site selection diversity transmit power control. (Col.4 line 48-59)

With respect to claim 37, Wu discloses the method of operating a mobile station, comprising: receiving, by the mobile station UE, data via pilot channels 216 used by a plurality of sectors; determining whether sectors of said plurality of sectors have not received data via common pilot channels at least a predetermined number of time; and selecting candidate sectors by excluding from said plurality of sectors from which said mobile station has not received data via common pilot channels at least a predetermined number of times. (Col.4 line 48-59)

With respect to claim 38 , Wu discloses the method according claim 37, wherein: said determining step determines whether said mobile station UE is receiving data via a common pilot channel from each of said plurality of sectors. (Col.4 line 7-11)

With respect to claim 39, Wu discloses the method according to claim 37, further comprising: determining whether said mobile station UE is receiving data via a dedicated physical data channel from each of the candidate sectors which have been selected, and excludes sectors from which said mobile station UE has not received any data via dedicated physical data channels a predetermined number or more of times from candidates for site selection diversity transmit power control. (Col.9 line 11-16)

With respect to claim 40, Wu discloses the method according to claim 37, further comprising: selecting a sector whose common pilot channel has a strongest power from the candidate sectors which have been selected. (Col.4 line 7-11)

With respect to claim 41, Wu discloses the method of operating a mobile station, comprising: receiving, by the mobile station UE, data from a plurality of sectors; and selecting, by the mobile station UE, sectors as candidates for site selection diversity transmit power control using: site selection diversity transmission power control on/off information received via said plurality of sectors from a radio network control station, information indicating whether said mobile station is receiving data via a dedicated physical data channel from said plurality of sectors, and DTX (Discontinuous transmission) on/off information of a TFCI (Transport Format Combination Indicator) field indicating a structure of a transport channel in the dedicated physical control channel. (Col.2 line 50-63) (Col.4 line 7-11) and (Col.4 line 43-47)

With respect to claim 42, Wu discloses the mobile station UE according to claim 41, further comprising: measuring, by the mobile station, received power of the dedicated physical data channels of said plurality of sectors to determine whether said mobile station is receiving data via the dedicated physical channels. (Col.4 line 7-11)

With respect to claim 43, Wu discloses the mobile station UE according to claim 41, further comprising: measuring, by the mobile station, received power of the TFCI field of the dedicated physical data channel so as to determine whether said mobile station is receiving data via the dedicated physical data channel from said plurality of sectors. (Col.9 line 11-16)

With respect to claim 44, Wu discloses the mobile station according to claim 41, further comprising: measuring, by the mobile station UE, received power of a pilot field of the dedicated physical data channel so as to determine whether said mobile station is receiving data via the dedicated physical data channel from said plurality of sectors.

(Col.4 line 7-11)

With respect to claim 45, Wu discloses the mobile station UE according to claim 41, further comprising: measuring, by the mobile station, received power of both the TFCI field of the dedicated physical data channel and a pilot field of the dedicated physical data channel so as to determine whether said mobile station is receiving data via the dedicated physical . (Col.4 line 7-11)

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RICHARD CHAN whose telephone number is (571)272-0570. The examiner can normally be reached on Mon - Fri (9AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571)272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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6/24/07